
IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

JACK R. YOUNGS, JAMES G. CORELL,
WILLIAM R. MCDAVID, and MARGERET
B. MCDAVID

Plaintiffs,

vs.

JACK BEHNKEN, NANCY BEHNKEN,
JOHN BEHNKEN, SANDI BEHNKEN,
WILLIAM BEHNKEN, AMERICAN
NUTRITION INC., a Utah Corporation;
ROCKY MOUNTAIN MILLING LLC, a
Utah Limited Liability Company; SOLAR
ENGINEERING LTD., a Utah Limited
Partnership,

Defendants/Counterclaim Plaintiffs,

vs.

JACK R. YOUNGS, JAMES G. CORELL,
WILLIAM R. MCDAVID, MARGERET B.
MCDAVID, and BOWLES RICE
MCDAVID GRAFF & LOVE, a West
Virginia Law Firm,

Counterclaim Defendants.

ORDER DIRECTING PLAINTIFFS
TO PROVE DIVERSITY OF
CITIZENSHIP

Case No. 1:04-CV-00183 PGC

Plaintiffs are minority stockholders of a close corporation, defendant American Nutrition Inc. They asked the court to compel ANI and its majority shareholders to arbitrate the value of the plaintiffs' shares and then purchase the shares at the arbitrated price. Plaintiffs allege that the court has diversity jurisdiction over this action.¹

While reviewing the pending motions to confirm and vacate the arbitration award entered in this case, the court noticed that the plaintiffs' complaint does not allege the citizenship of each partner of Solar Engineering or each member of Rocky Mountain Milling. Complete diversity among all plaintiffs and defendants — including a partnership's limited partners² or members of a limited liability company³ — is a necessary prerequisite for diversity jurisdiction to exist. And this court has an independent obligation to assess its own subject matter jurisdiction.⁴

¹See 28 U.S.C. § 1332.

²*Penteco Corp. Ltd. P'ship v. Union Gas Sys., Inc.*, 929 F.2d 1519, 1521–23 (10th Cir. 1991) (citing *Carden v. Arkoma Assoc.*, 494 U.S. 185, 195–96 (1990)).

³*Cosgrove v. Bartolotta*, 150 F.3d 729, 721 (7th Cir. 1998).

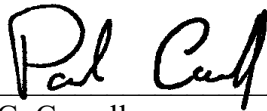
⁴See Fed. R. Civ. P. 12(h)(3).

The court therefore ORDERS the plaintiffs to respond within twenty-one (21) days and provide the court with a list of all members of Rocky Mountain Milling and all partners (limited or general) of Solar Engineering, together with those persons' citizenship as of the date this action was commenced, so that the court may determine whether complete diversity exists.

SO ORDERED.

DATED this 31st day of May, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Paul Cassell", written over a horizontal line.

Paul G. Cassell
United States District Judge